

REMARKS

Claim 1 has been amended and claim 6 has been cancelled. Claims 1-5 and 7 are pending and under consideration.

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

I. Rejection under 35 U.S.C. §§ 102/103

In the Office Action, at pages 2-3, claim 1 was rejected under 35 USC § 102(b) as being anticipated by Koshimizu et al. ("Koshimizu", U.S. Patent No. 6,522,862).

In the Office Action, at page 3, claim 7 was rejected under 35 USC § 102(a) as being anticipated by "Fujitsu PFU Limited" (P3PC-E737-01EN).

In the Office Action, at pages 4-8, claims 2-6 was rejected under 35 USC § 103(a) as being unpatentable over Koshimizu in view of Fujitsu PFU Limited.

Claim 1 has been amended to recite the features of dependent claim 6 and now recites:

the auto-document feeder mechanism operates at a relative position selected from a plurality of positions with an orientation selected from opposite orientations on the flatbed mechanism, the auto-document feeder mechanism being configured to operate at each of the plurality of positions in each of the opposite orientations.

In rejecting dependent claim 6, the Examiner acknowledged that Koshimizu does not disclose this feature and relied on Fujitsu PFU Limited.

However, it is respectfully submitted that Fujitsu PFU Limited fails to qualify as prior art against the claims of the subject application.

To begin with, the reference Fujitsu PFU Limited, as provided by the Examiner, lists a date of issuance as December 2003. The subject application claims the benefit of priority of Japanese Application No. 2003-420888, filed December 18, 2003. Thus, since there is no indication of the exact date in December 2003 that Fujitsu PFU Limited was "issued", applicants respectfully submit that it is the Examiner's responsibility to provide evidence that the date of Fujitsu PFU Limited was prior to December 18, 2003.

Furthermore, it is submitted that the product described in the manual Fujitsu PFU Limited is a product that is produced by the assignee of the subject application, PFU Limited, and is sold by Fujitsu Limited, where PFU Limited is one of the Fujitsu Limited group companies. As such,

the assignee submits that the December 2003 issuance date listed on the cited reference Fujitsu PFU Limited is merely a printing date of the reference and not a publication date or the like. The appendices attached to this Amendment further support this position.

Appendix A is a copy of a UK web page, found at <http://www.b-m-i.co.uk/fujitsupages/bmisolutions5750manuals.htm> and retrieved on April 19, 2010, which lists the FI-5750C GETTING STARTED GUIDE, which is the same as the cited Fujitsu PFU Limited reference, as having a publication date of February 13, 2004, which is after the priority date of December 18, 2003 for the subject application.

Appendix B is a copy of a US web page, found at <http://www.fujitsu.com/global/services/computing/peripheral/scanners/press040120.html> and retrieved on April 19, 2010, which is a press release for the product fi-5750C, which corresponds to the product described in the cited Fujitsu PFU Limited reference. The press release is dated January 20, 2004, which is after the priority date of December 18, 2003 for the subject application.

Appendix C is a copy of a Japanese web page, found at <http://enterprise.watch.impress.co.jp/cda/hardware/2004/01/21/1127.html> and retrieved on April 19, 2010, which provides press release information announced on January 21, 2004 for a Fujitsu image scanner fi-5750C. This press release information is dated January 21, 2004, which is after the priority date of December 18, 2003 for the subject application.

Appendix D is a copy of a press release from PFU Limited dated January 20, 2004 announcing the product fi-5750C. The press release is dated January 20, 2004, which is after the priority date of December 18, 2003 for the subject application.

Thus, since the reference Fujitsu PFU Limited does not qualify as prior art against claim 1 of the subject application, it is respectfully submitted that claim 1 patentably distinguishes over the cited prior art.

In view of the fact that claims 2-5 and 7 are also rejected at least partially in view of the reference Fujitsu PFU Limited, it respectfully submitted that claims 2-5 and 7 also patentably distinguish over the cited prior art for at least the reasons discussed above.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

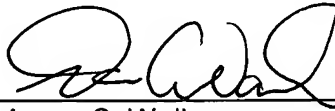
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 
Aaron C. Walker
Registration No. 59,921

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501